

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCIS TEMPLIN,
Plaintiff,

v.

ERIC J. WEAKNECHT, *et al.*,
Defendants.

FILED

MAR 13 2019

CIVIL ACTION NO. 19-CV-1021

KATE BARKMAN, Clerk
By _____ Dep. Clerk

ORDER

AND NOW, this 13th day of March, 2019, upon consideration of *pro se* Plaintiff Francis Templin's Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 3), and Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED**.
2. Templin, #2018-2134 M-111, shall pay the full filing fee of \$350.00 in installments, pursuant to 28 U.S.C. § 1915(b). Based on the financial information provided by Templin, he is not assessed an initial partial filing fee. In each month when the amount in Templin's inmate trust fund account exceeds \$10.00.00, the appropriate official at the Berks County Jail or at any other prison at which Templin may be incarcerated shall deduct from Templin's account, each time that Templin's inmate trust fund account exceeds \$10.00, an amount no greater than 20 percent of the money credited to his account during the preceding month and forward that amount to the Clerk of Court at the address provided above to be credited to Civil Action No. 19-1021.
3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Superintendent of the Berks County Jail.
4. The Complaint is **DEEMED** filed.

5. Templin's claims against Paul Trainor, Douglas Schlegal, and John C. Flagler are **DISMISSED** for the reasons set forth in the Court's Memorandum. Templin may proceed on his Fourteenth Amendment due process claims against Sheriff Eric Weaknecht.

6. The Clerk of Court is specially appointed to serve a written waiver requests on Sheriff Weaknecht, pursuant to Federal Rule of Civil Procedure 4(d), to effect waiver of service. The waiver of service request shall be accompanied by a copy of the Complaint as well as a copy of this Order and accompanying Memorandum, and shall inform Sheriff Weaknecht of the consequences of compliance and failure to comply with the request. The request shall allow Sheriff Weaknecht at least 30 days from the date it is sent (60 days if addressed outside any judicial district of the United States) to return the signed waiver. If a signed waiver is not returned within the time limit given, the Clerk of Court shall issue a summons and transmit the summons, a copy of the Complaint, and a copy of this Order and accompanying Memorandum to the U.S. Marshals Service for immediate service under Fed. R. Civ. P. 4(c).

7. All original pleadings and other papers submitted for consideration to the Court in this case are to be filed with the Clerk of Court. Copies of papers filed in this Court are to be served upon counsel for all other parties (or directly on any party acting *pro se*). Service may be made by mail. Proof that service has been made is provided by a certificate of service. The certificate of service should be filed in the case along with the original papers and should show the day and manner of service. An example of a certificate of service by mail follows:

"I, (name), do hereby certify that a true and correct copy of the foregoing (name of pleading or other paper) has been served upon (name(s) of person(s) served) by placing the same in the U.S. mail, properly addressed, this (day) of (month), (year).

(Signature)"

8. Any request for court action shall be set forth in a motion, properly filed and served. The parties shall file all motions, including proof of service upon opposing parties, with the Clerk of Court. The Federal Rules of Civil Procedure and local rules are to be followed. Templin is specifically directed to comply with Local Civil Rule 7.1 and serve and file a proper response to all motions within fourteen (14) days. Failure to do so may result in dismissal of this action.

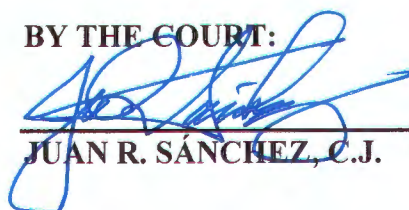
9. Templin is specifically directed to comply with Local Rule 26.1(f) which provides that “[n]o motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute.” Templin shall attempt to resolve any discovery disputes by contacting defendant’s counsel directly by telephone or through correspondence.

10. No direct communication is to take place with the United States District Judge or United States Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

11. In the event a summons is returned unexecuted, it is Templin’s responsibility to ask the Clerk of Court to issue an alias summons and to provide the Clerk with the defendant’s correct address, so service can be made.

12. The parties should notify the Clerk’s Office when there is an address change. Failure to do so could result in court orders or other information not being timely delivered, which could affect the parties’ legal rights.

BY THE COURT:



JUAN R. SANCHEZ, C.J.